

AMENDED IN SENATE APRIL 16, 2001

SENATE BILL

No. 927

Introduced by Senator Escutia

(Principal coauthors: Assembly Members Cardenas, Cohn, Keeley,
and Shelley)

February 23, 2001

An act to amend Sections 754 and 755 of the Evidence Code, and to amend Section 68562 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 927, as amended, Escutia. Courts: domestic violence: interpreters.

The California Constitution provides that a person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings. Existing statutory law provides that in any civil or criminal action, as specified, a sign language interpreter shall be appointed at county expense for an individual who is deaf or hearing impaired.

Existing law also provides that in any action or proceeding under specified provisions of the Family Code relating to domestic violence, in which a party does not proficiently speak or understand the English language, and in which that party is present, a foreign language interpreter shall be present to interpret the proceedings in a language that the party understands, and to assist communication between the party and his or her attorney, except that a court may issue prescribed orders ex parte without an interpreter. Existing law also provides that the court shall not commence proceedings until the foreign language interpreter is present, except as provided. Existing law specifies that the fees of these interpreters shall be paid by the parties, except that these

fees shall be waived for parties who need an interpreter and appear in forma pauperis. Existing law requires the Judicial Council to apply for certain federal and other funds other than state funds, and authorizes local public entities to apply for certain federal and other funds, in connection therewith.

This bill would require the appointment in domestic violence proceedings, *as specified*, and in other settings mandated by the court, of an interpreter for a person who is deaf or hearing impaired as well as the appointment of a foreign language interpreter for a person not proficient in English; would require certified *or registered* sign language interpreters in these proceedings; and would limit the services of foreign language interpreters to certified *or registered* interpreters. The bill would provide for the waiver of fees for an interpreter for a petitioner who is not proficient in English in domestic violence proceedings, as well as for any person who appears in forma pauperis, or for any other party pursuant to a court order. This bill would also require the Judicial Council to establish additional domestic violence training requirements for interpreters, as specified, and to conduct a public education and notification program. The bill would require the Judicial Council, in coordination with its Court Interpreter Advisory Panel, to report to the Legislature regarding the effectiveness of this act no later than January 1, 2007.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 754 of the Evidence Code is amended
- 2 to read:
- 3 754. (a) As used in this section, “individual who is deaf or
- 4 hearing impaired” means an individual with a hearing loss so great
- 5 as to prevent his or her understanding language spoken in a normal
- 6 tone, but does not include an individual who is hearing impaired
- 7 provided with, and able to fully participate in the proceedings
- 8 through the use of, an assistive listening system or computer-aided
- 9 transcription equipment provided pursuant to Section 54.8 of the
- 10 Civil Code.
- 11 (b) In any civil or criminal action, including, but not limited to,
- 12 any action involving a traffic or other infraction, any small claims
- 13 court proceeding, any juvenile court proceeding, any family court



1 proceeding or service, or any proceeding to determine the mental
2 competency of a person, in any court-ordered or court-provided
3 alternative dispute resolution, including mediation and arbitration,
4 or any administrative hearing, where a party or witness is an
5 individual who is deaf or hearing impaired and the individual who
6 is deaf or hearing impaired is present and participating, the
7 proceedings shall be interpreted in a language that the individual
8 who is deaf or hearing impaired understands by a qualified
9 interpreter appointed by the court or other appointing authority, or
10 as agreed upon.

11 (c) For purposes of this section, “appointing authority” means
12 a court, department, board, commission, agency, licensing or
13 legislative body, or other body for proceedings requiring a
14 qualified interpreter.

15 (d) For the purposes of this section, “interpreter” includes, but
16 is not limited to, an oral interpreter, a sign language interpreter, or
17 a deaf-blind interpreter, depending upon the needs of the
18 individual who is deaf or hearing impaired.

19 (e) For purposes of this section, “intermediary interpreter”
20 means an individual who is deaf or hearing impaired, or a hearing
21 individual who is able to assist in providing an accurate
22 interpretation between spoken English and sign language or
23 between variants of sign language or between American Sign
24 Language and languages other than English by acting as an
25 intermediary between the individual who is deaf or hearing
26 impaired and the qualified interpreter.

27 (f) For purposes of this section, “qualified interpreter” means
28 an interpreter who has been certified *or registered* as competent to
29 interpret court proceedings by a testing organization, agency, or
30 educational institution approved by the Judicial Council as
31 qualified to administer tests to court interpreters for individuals
32 who are deaf or hearing impaired.

33 (g) In the event that the appointed interpreter is not familiar
34 with the use of particular signs by the individual who is deaf or
35 hearing impaired or his or her particular variant of sign language,
36 the court or other appointing authority shall, in consultation with
37 the individual who is deaf or hearing impaired or his or her
38 representative, appoint an intermediary interpreter.

39 (h) Prior to July 1, 1992, the Judicial Council shall conduct a
40 study to establish the guidelines pursuant to which it shall

1 determine which testing organizations, agencies, or educational
2 institutions will be approved to administer tests for certification of
3 court interpreters for individuals who are deaf or hearing impaired.
4 It is the intent of the Legislature that the study obtain the widest
5 possible input from the public, including, but not limited to,
6 educational institutions, the judiciary, linguists, members of the
7 State Bar, court interpreters, members of professional interpreting
8 organizations, and members of the deaf and hearing-impaired
9 communities. After obtaining public comment and completing its
10 study, the Judicial Council shall publish these guidelines. By
11 January 1, 1997, the Judicial Council shall approve one or more
12 entities to administer testing for court interpreters for individuals
13 who are deaf or hearing impaired. Testing entities may include
14 educational institutions, testing organizations, joint powers
15 agencies, or public agencies.

16 Commencing July 1, 1997, court interpreters for individuals
17 who are deaf or hearing impaired shall meet the qualifications
18 specified in subdivision (f).

19 (i) Persons appointed to serve as interpreters under this section
20 shall be paid, in addition to actual travel costs, the prevailing rate
21 paid to persons employed by the court to provide other interpreter
22 services unless such service is considered to be a part of the
23 person's regular duties as an employee of the state, county, or other
24 political subdivision of the state. Payment of the interpreter's fee
25 shall be a charge against the county, or other political subdivision
26 of the state, in which that action is pending. Payment of the
27 interpreter's fee in administrative proceedings shall be a charge
28 against the appointing board or authority.

29 (j) Whenever a peace officer or any other person having a law
30 enforcement or prosecutorial function in any criminal or
31 quasi-criminal investigation or proceeding questions or otherwise
32 interviews an alleged victim or witness who demonstrates or
33 alleges deafness or hearing impairment, a good faith effort to
34 secure the services of an interpreter shall be made, without any
35 unnecessary delay unless either the individual who is deaf or
36 hearing impaired affirmatively indicates that he or she does not
37 need or cannot use an interpreter, or an interpreter is not otherwise
38 required by Title II of the Americans with Disabilities Act of 1990
39 (Public Law 101-336) and federal regulations adopted thereunder.

(k) No statement, written or oral, made by an individual who the court finds is deaf or hearing impaired in reply to a question of a peace officer, or any other person having a law enforcement or prosecutorial function in any criminal or quasi-criminal investigation or proceeding, may be used against that individual who is deaf or hearing impaired unless the question was accurately interpreted and the statement was made knowingly, voluntarily, and intelligently and was accurately interpreted, or the court makes special findings that either the individual could not have used an interpreter or an interpreter was not otherwise required by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder and that the statement was made knowingly, voluntarily, and intelligently.

(l) In obtaining services of an interpreter for purposes of subdivision (j) or (k), priority shall be given to first obtaining a qualified interpreter.

(m) Nothing in subdivision (j) or (k) shall be deemed to supersede the requirement of subdivision (b) for use of a qualified interpreter for individuals who are deaf or hearing impaired participating as parties or witnesses in a trial or hearing.

(n) In any action or proceeding in which an individual who is deaf or hearing impaired is a participant, the appointing authority shall not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure proper communication with the participating individual who is deaf or hearing impaired.

(o) Each superior court shall maintain a current roster of qualified interpreters certified pursuant to subdivision (f).

SEC. 2. Section 755 of the Evidence Code is amended to read:

755. (a) In any action or proceeding under Division 10 (commencing with Section 6200) of the Family Code, and in any action or proceeding under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code) or for dissolution or nullity of marriage or legal separation of the parties in which a protective order has been granted or is being sought pursuant to Section 6221 of the Family Code, or in other settings mandated by the court, including mediation with Family Court services ~~or supervised visitation~~ *and for family law facilitator meetings* when the mediator or ~~supervisor~~ *facilitator* does not speak the language of a party, in which a party is deaf or

1 hearing impaired or does not proficiently speak or understand the
2 English language, and that party is present, a sign language
3 interpreter qualified pursuant to Section 754 of this code or an
4 interpreter of languages other than English qualified pursuant to
5 Section 68561 of the Government Code, as appropriate, shall be
6 present to interpret the proceedings in sign language or a language
7 that the party understands, respectively, and to assist
8 communication between the party and his or her attorney. *The first*
9 *priority for providing interpreters shall be in courtroom*
10 *proceedings. Interpreters shall be assigned for mediation with*
11 *Family Court Services and for family law facilitator meetings only*
12 *if it does not result in a shortage of interpreters for courtroom*
13 *proceedings.*

14 (b) (1) The fees of interpreters for parties who are deaf or
15 hearing impaired shall be paid pursuant to subdivision (i) of
16 Section 754.

17 (2) The fees of interpreters for all other parties shall be paid as
18 ~~provided in subdivision (b) of Section 68092 of the Government~~
19 ~~pursuant to Chapter 13 (commencing with Section 77000) of Title~~
20 ~~8 of The Government Code.~~ However, the fees of an interpreter
21 shall be waived for a ~~petitioner~~ party who does not proficiently
22 speak or understand the English language in any action or
23 proceeding brought under Division 10 (commencing with Section
24 6200) of the Family Code and for any party who appears in forma
25 pauperis pursuant to Section 68511.3 of the Government Code or
26 for any ~~other party pursuant to order of the court~~ family law
27 ~~proceeding which contains allegations of domestic violence.~~ The
28 Judicial Council shall amend subdivision (i) of Rule 985 of the
29 California Rules of Court and revise its forms accordingly.

30 (c) In any civil action in which an interpreter is required under
31 this section, the court shall not commence proceedings until the
32 appointed interpreter is present and situated near the party and his
33 or her attorney. However, this section shall not prohibit the court
34 from doing any of the following:

35 (1) Issuing an order when the necessity for the order outweighs
36 the necessity for an interpreter.

37 (2) Extending the duration of a previously issued temporary
38 order if an interpreter is not readily available.

39 (3) Issuing a permanent order where a party who requires an
40 interpreter fails to make appropriate arrangements for an

1 interpreter after receiving proper notice of the hearing with
2 information about obtaining an interpreter.

3 (d) This section does not prohibit the presence of any other
4 person, *such as a support person authorized under Section 6303*
5 *of the Family Code*, to assist a party.

6 (e) The Judicial Council shall apply to the appropriate state
7 agency that receives federal funds authorized pursuant to the
8 federal Violence Against Women Act (P.L. 103-322) for these
9 federal funds or for funds from sources other than the state to
10 implement this section.

11 (f) The Judicial Council shall draft rules and modify forms
12 necessary to implement this section, including those for the
13 petition for a temporary restraining order and related forms, to
14 inform both parties of their right to an interpreter pursuant to this
15 section.

16 SEC. 3. Section 68562 of the Government Code is amended
17 to read:

18 68562. (a) The Judicial Council shall designate the
19 languages for which certification programs shall be established
20 under subdivision (b). The language designations shall be based on
21 (1) the courts' needs as determined by the language and interpreter
22 use and need studies under Section 68563, (2) the language needs
23 of non-English-speaking persons in the courts, and (3) other
24 information the Judicial Council deems relevant.

25 (b) By July 1, 1996, the Judicial Council shall approve one or
26 more entities to certify Spanish language interpreters and
27 interpreters for as many other languages designated under
28 subdivision (a) as practicable by that date. The Judicial Council
29 may give provisional approval to an entity to examine interpreters
30 and establish a list of recommended court interpreters pending
31 final approval of one or more certification entities. Certification
32 entities may include educational institutions, testing
33 organizations, joint powers agencies, or public agencies.

34 The Judicial Council shall adopt and publish guidelines,
35 standards, and procedures to determine which certification entities
36 will be approved to test and certify interpreters.

37 (c) The Judicial Council shall develop and implement
38 procedures to administer the list of recommended court
39 interpreters previously established by the State Personnel Board

1 and the list established by an entity provisionally approved under
2 subdivision (b).

3 The Judicial Council shall develop procedures and standards for
4 certifying without reexamination interpreters on the list of
5 recommended court interpreters (1) previously established by the
6 State Personnel Board, or (2) established by an entity provisionally
7 approved under subdivision (b). Certification of these interpreters
8 shall be based on criteria determined by the Judicial Council, such
9 as recent interpreting experience, performance in court or at
10 administrative hearings, training, and continuing education.

11 (d) The Judicial Council shall adopt standards and
12 requirements for interpreter proficiency, continuing education,
13 certification renewal, and discipline. The Judicial Council shall
14 adopt standards of professional conduct for court interpreters.

15 (e) The Judicial Council shall adopt programs for interpreter
16 recruiting, training, and continuing education and evaluation to
17 ensure that an adequate number of interpreters is available and that
18 they interpret competently.

19 (f) The Judicial Council shall establish guidelines for fees or
20 shall set and charge fees for applications to take the court
21 interpreter examinations, for renewal of certifications, for
22 certification of interpreters on the list of recommended court
23 interpreters, for maintaining interpreters on the recommended list
24 until January 1, 1996, and for other functions and services
25 provided under this article. All fees and other revenues received
26 by the Judicial Council under this article shall be transferred
27 promptly to the Controller, and shall be placed in the Court
28 Interpreters' Fund, which is hereby created, the moneys in which
29 shall be available to carry out the purposes of this article upon
30 appropriation by the Legislature.

31 (g) Each superior and municipal court may adopt local rules to
32 impose additional requirements, standards, examinations, and
33 programs as necessary for equity or to recognize local conditions.

34 (h) The Judicial Council shall ~~develop a statewide rule of court~~
35 ~~requiring~~ *require* minimum training standards for interpreters of
36 ~~six~~ *three* hours of instruction and coursework in the dynamics of
37 domestic violence within the first year of certification or
38 registration, and three hours of continuing education credits on a
39 biannual basis. *The three hours continuing education credits shall*
40 *be part of, and not in addition to, the existing 30-hour biannual*

continuing education requirement. The initial training and continuing education shall include an overview of domestic violence and family law terminology and proceedings, development of skills for working with victims of violence and traumatized individuals, and training in the dynamics of domestic violence. None of the initial ~~six~~ *three* hours, and no more than ~~two~~ *hours* ~~one hour~~ of the continuing education requirement, may be fulfilled by self-study coursework. Training and coursework offered pursuant to this subdivision shall be developed and conducted in partnership with the Judicial Council Court Interpreter’s Advisory Panel and nonprofit community based organizations whose primary purpose is to serve survivors of domestic violence. Training pursuant to this subdivision shall be approved for Court Interpreter Minimum Continuing Education through the Judicial Council Court Interpreter’s Advisory Panel. Community-based organizations offering this training shall be compensated with a materials fee. All training required pursuant to this subdivision shall apply to interpreters for the deaf as described in Sections 750 to 755, inclusive, of the Evidence Code as well as to interpreters of other languages.

(i) The Judicial Council shall conduct a public education and notification program regarding this section and Sections 750 to 755, inclusive, of the Evidence Code, to assure a high degree of publicity with respect to these provisions. This public education program shall include, but is not limited to, the following:

(1) Each court and family law facilitator’s office shall post in a conspicuous place a notice, 8.5 by 11 inches or larger, advising parties in multiple languages, including, but not limited to, English, Spanish, Tagalog, Arabic, Cantonese, Vietnamese, Japanese, and Korean, of their right to an interpreter, including information regarding interpreter fees and costs and the right to waiver of these fees and costs. This notice shall read substantially as follows:

“If you are deaf or unable to speak English fluently, you are entitled to an interpreter for your court proceeding. Interpreters are available at no cost for all persons eligible to receive a fee waiver with respect to the cost of court filings. Waiver of the fees and costs of an interpreter may also be available for others who cannot afford to pay for an interpreter.”

1 (2) Outreach shall be performed by the Judicial Council
2 concerning the availability of interpreters and the availability of
3 waiver for associated costs and fees for court filings.

4 SEC. 4. In coordination with its Court Interpreter Advisory
5 Panel, the Judicial Council shall evaluate the effectiveness of the
6 requirements imposed by this act and report thereon to the
7 Legislature no later than January 1, 2007.

